

[Advisory Opinion 1996-3]

March 12, 1996

[Name1 withheld]

Re: Advisory Opinion and/or Secondary Employment Approval

Dear [Name1 withheld]:

You have requested advice regarding part-time as a part-time solo practitioner in general legal practice. As you indicated, you complied with Section 19A-12 of the Montgomery County Ethics Law by disclosing your law practice when you were first elected to the Montgomery County Council. You currently wish to resume the practice of law and have asked whether your prior disclosure permits you to continue the practice of law without requiring approval from the Commission.

Section 19A-12(c) of the Ethics Law excepts certain employees from the County's general restrictions on secondary employment. Section 19A-12(c)(4) allows an elected public employee to continue secondary employment that was held at the time of his election, if the employment was properly disclosed before the election. The Commission finds that Section 19A-12(c)(4) applies in this case because you were employed as an attorney before you were first elected and you disclosed that employment. Therefore, you may resume the practice of law without obtaining secondary employment approval from the Commission.

However, a number of other legal restrictions will affect your future law practice.

For instance, a public employee must not:

- (1) be employed by<<, or own more than one percent of,>> any business that:
  - (A) is regulated by the County agency with which the public employee is affiliated; or
  - (B) negotiates or contracts with the County agency with which the public employee is affiliated; or
- (2) hold any employment relationship that would impair the impartiality and independence of judgment of the public employee.

Section 19A-12(b) of the Montgomery County Ethics Law. Furthermore, the Charter provides that:

No person whose compensation is paid in whole or part by the County shall (1) act as an attorney . . . for . . . any person, firm or corporation transacting business of any kind with, or engaging in litigation against the County, or any instrumentality thereof, (2) represent or serve any client un any manner if that client's interest is adverse to that of the County, or in conflict with the person's official duties.

Section 411 of the Montgomery County Charter. These provisions may be waived by the Commission pursuant to Section 19A-8 of the Montgomery County Ethics Law. Absent a waiver, these provisions impose severe limitations on the scope of your practice within Montgomery County.

If you have additional questions or wish to obtain advice based upon more specific facts, please do not hesitate to contact the Commission.

Sincerely,

[signed]

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Laurie B. Horvitz, Chair  
Montgomery County Ethics Commission

Cc: Barbara McNally, Executive Secretary, Montgomery County Ethics Commission